

Panaji, 26th December, 1996 (Pausa 5, 1918)

SERIES I No. 39

OFFICIAL GAZETTE



GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Department of Legislative Affairs

Notification

LA/B/4184/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 17-12-1996 is hereby published for general information in pursuance of the provisions of Rule 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

THE GOA SUPPLEMENTARY APPROPRIATION BILL, 1996

(Bill No. 16 of 1996)

A Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Goa for the services and purposes of the financial year 1996 - 97.

Be it enacted by the Legislative Assembly of Goa in the Forty-seventh Year of the Republic of India as follows:—

1. *Short title.* — This Act may be called the Goa Supplementary Appropriation Act, 1996.

2. *Issue of Rs. 3,59,84,617 out of the Consolidated Fund of the State of Goa for the financial year 1996-97.* — From and out of the Consolidated Fund of the State of Goa, there may be paid and applied sums not exceeding those specified in column 5 of the Schedule amounting in the aggregate to the sum of three crores fifty nine lakhs eighty four thousand six hundred and seventeen rupees towards defraying the several charges which will come in course of payment during the financial year 1996 - 97 in respect of the services and purposes specified in column 2 of the Schedule.

3. *Appropriation.* — The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa, by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said financial year.

THE SCHEDULE
(See Sections 2 & 3)

| No. of Demand | Services and purposes | Sums not exceeding | | Total |
|---------------|--|--------------------|--|-------------|
| | | Voted by Assembly | Charged on the Consolidated Fund of the State of Goa | |
| 1 | 2 | 3 | 4 | 5 |
| | | Rupees | Rupees | Rupees |
| 3. | Administration of Justice | 6,52,000 | — | 6,52,000 |
| 18. | Public Works | — | 20,22,000 | 20,22,000 |
| 22. | General Education | — | 3,12,000 | 3,12,000 |
| 23. | Technical Education | — | 77,59,000 | 77,59,000 |
| 26. | Medical and Public Health | — | 7,567 | 7,567 |
| 27. | Family Welfare | 7,78,000 | — | 7,78,000 |
| 28. | Water Supply and Sanitation | — | 55,88,000 | 55,88,000 |
| 29. | Housing | — | 13,84,000 | 13,84,000 |
| 32. | Welfare of Scheduled Castes, Scheduled Tribes and Other Backward Classes | 3,60,000 | — | 3,60,000 |
| 34. | Social Security and Welfare | 39,050 | — | 39,050 |
| 37. | Agriculture | — | 21,000 | 21,000 |
| 51. | Minor Irrigation | — | 30,000 | 30,000 |
| 60. | Roads and Bridges | — | 32,61,000 | 32,61,000 |
| 61. | Road Transport | 1,25,00,000 | — | 1,25,00,000 |
| 65. | Tourism | 12,71,000 | — | 12,71,000 |
| Total | | 1,56,00,050 | 2,03,84,567 | 3,59,84,617 |

Financial Memorandum

Provision is made in the Bill to appropriate for certain services and purposes expressed in the Schedule during the financial year ending 31st March, 1997, a sum of Rs. 3,59,84,617 over and above the amounts granted for those services for the financial year 1996-97. The amount mentioned above consists of Rs. 31,28,617 on Revenue Account and Rs. 3,28,56,000 on Capital Account.

This Bill is introduced in pursuance of Article 205(1) read with Article 204 of the Constitution of India to provide for the Supplementary Appropriation out of the Consolidated Fund of the State of Goa of the moneys required to meet the amount required on certain services during the financial year, 1996-97 in excess of the amounts granted for those services.

Panaji,
December, 1996

SHRI PRATAPSINGH RAOJI RANE
Chief Minister

Legislative Assembly of Goa

A
BILL

To give effect to the financial proposal of the State of Goa for the financial year 1996-97.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Legislative Assembly, the introduction and consideration of the Bill.

ASHOK B. ULMAN
Secretary, Legislature Department

Notification

LA/B/4165/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 16-12-1996 is hereby published for general information in pursuance of the provisions of Rule 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 17th December, 1996.

THE GOA LEGISLATIVE DIPLOMA No. 2070 DATED
15-4-1961 (AMENDMENT) BILL, 1996

(Bill No. 17 of 1996)

A

Bill

further, to amend the Legislative Diploma No. 2070 dated 15-4-1961, in its application to the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Forty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa Legislative Diploma No. 2070 dated 15-4-1961 (Amendment) Act, 1996.

(2) It shall come into force at once.

2. *Amendment of Article 334-A.*— In Article 334-A of the Legislative Diploma No. 2070 dated 15-4-1961,—

(i) after the words “grant on lease” and before the words “not more than”, the expression “not more than 10,000 sq. metres of land to educational societies for construction of playgrounds and” shall be inserted;

(ii) after first proviso, the following shall be inserted, namely:—

“Provided further that institutions of public utility and associations of professional bodies duly recognised by the Government may also be granted not more than 10,000 sq. metres of Comunidade land on lease for construction of houses or buildings, without auction.”.

Statement of Objects and Reasons

It is proposed to amend Article 334-A of the Legislative Diploma No. 2070 dated 15-4-1961, so as to entitle educational societies for grant of Comunidade land on lease to the extent of 10,000 sq. metres for construction of playgrounds and also entitle recognised institutions of public utility and associations of professional bodies duly recognised by the Government for grant of Comunidade land on lease to the extent of 10,000 sq. mts. for construction of houses or buildings, without auction.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
28th November, 1996

WILFRED MISQUITA
Minister for Revenue

Assembly Hall,
Panaji,
29th November, 1996

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa

(Annexure to Bill No. 17 of 1996)

The Goa Legislative Diploma No. 2070 dated 15-4-1961
(Amendment) Bill, 1996

The Goa, Daman and Diu Legislative Diploma No. 2070 dated
15-4-1961 (Amendment) Act, 1984

(Act No. 1 of 1985)

“Article 334-A.— Notwithstanding anything contained in article 334, but subject to article 327, a Comunidade may, subject to such guidelines as the Government, may, from time to time, issue grant on lease not more than 400 Sq. metres of land for construction of houses or buildings, without auction, to any of the following categories or for purposes:—

- i) Public charitable or religious Institutions;
- ii) For any scheme of providing housing to the economically weaker sections;
- iii) Small Scale Industrial purposes;
- iv) Government Department or local bodies;
- v) Co-operative Housing Societies of landless persons;
- vi) Government servants or employees of the Comunidades who are landless;
- vii) Landless Jonoceros;
- viii) Landless freedom fighters;
- ix) Such other categories or purposes as may be notified by the Government, from time to time.

Provided that every notification issued under this clause shall be laid as soon as may be, after it is issued, before the Legislative Assembly.

Provided further that the members of the Co-operative Housing Societies and the persons belonging to the categories (vi), (vii) and (viii) above are residing in Goa for preceding 15 years:

Provided also that no person whose annual income exceeds Rs. 1,25,000/- or such amount as may be prescribed by the Government shall be eligible for grant of land on lease without auction”.

“Explanation 1. — For the purpose of this Article, the word “landless” means that neither the person nor his or her spouse or minor child owns a plot of land or house in the State of Goa. The word “house” shall also include a flat or apartment.”

"Explanation 2.— For the purposes of this Article, the annual income of the person shall be construed to mean the annual income of the person and of his or her spouse or minor child".

Assembly Hall,
Panaji
4th December, 1996

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa

Notification

LA/B/4166/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 16-12-1996 is hereby published for general information in pursuance of the provisions of Rule 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 17th December, 1996.

THE GOA ADMINISTRATIVE TRIBUNAL (AMENDMENT) BILL, 1996

(Bill No. 19 of 1996)

A
BILL

further to amend the Goa, Daman and Diu Administrative Tribunal Act, 1965.

Be it enacted by the Legislative Assembly of Goa in the Forty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Administrative Tribunal (Amendment) Act, 1996.

(2) It shall be deemed to have come into force with effect from 8th October, 1996.

2. *Amendment of section 1.*— In section 1 and in other sections of the Goa, Daman and Diu Administrative Tribunal Act, 1965 (Act 6 of 1965) (hereinafter referred to as the 'principal Act'),—

(i) in the long and short title, the figure and words "Daman and Diu", wherever they occur, shall be omitted;

(ii) for the expression "the Union territory of Goa, Daman and Diu", wherever it occurs, the expression "the State of Goa" shall be substituted.

3. *Amendment of section 2.*— In section 2 of the principal Act,—

(i) clause (a) shall be omitted;

(ii) after clause (c), the following shall be inserted, namely:—

"(cc) 'President' means the President of the Tribunal";

(iii) in clause (d), for the expression "the Lieutenant Governor of Goa, Daman and Diu", the expression "the Government of Goa" shall be substituted.

4. *Amendment of section 3.*— In section 3 of the principal Act,—

(i) for sub-section (2), the following shall be substituted, namely:—

"(2) The Tribunal shall consist of a President who shall be appointed by the State Government.";

(ii) in sub-section (3),—

(a) for the words "Chairman or a Member", the word "President" shall be substituted;

(b) in the proviso, for the word "Chairman", the word "President" shall be substituted.

5. *Amendment of section 4.*— In section 4 of the principal Act,—

(i) in sub-section (1), the words and figure "of the existence of any vacancy in, or" shall be omitted;

(ii) sub-section (2) shall be omitted.

6. *Amendment of section 5.*— In section 5 of the principal Act,—

(i) in sub-section (1), for the word "Chairman", the word "President" shall be substituted;

(ii) for sub-section (2), the following shall be substituted, namely:—

"(2) The Tribunal shall sit in such manner as may be prescribed by regulations.";

(iii) sub-sections (3), (4), (5) and (6) shall be omitted.

7. *Amendment of section 7.*— In sub-section (2) of section 7 of the principal Act, for the expression "sections 195, 480 and 482 of the Code of Criminal Procedure, 1898", the expression "sections 195, 345(1) and 346 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974)" shall be substituted.

8. *Amendment of section 12.*— In sub-section (1) of section 12 of the principal Act, for the words "Chairman or any other Member", the word "President" shall be substituted.

9. *Amendment of section 13.*— In sub-section (2) of section 13 of the principal Act, in clause (c), for the words and figure "Chairman, a Member", the word "President" shall be substituted.

10. *Amendment of section 14.*— In section 14 of the principal Act,—

(i) in sub-section (1), for the word "Chairman", the word "President" shall be substituted;

(ii) in sub-section (2),—

(a) for the word "Chairman", the word "President" shall be substituted;

(b) clause (c) shall be omitted.

11. *Repeal and saving.*— (1) The Goa Administrative Tribunal (Amendment) Ordinance, 1996 (Ordinance No. 1 of 1996) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Statement of Objects and Reasons

The Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965 (Act 6 of 1965) consists of a Chairman and two Members.

It is now proposed to amend the said Act, 1965, so as to make the Administrative Tribunal a single member Tribunal consisting of the President only, for its effective functioning.

This Bill seeks to achieve the above object.

Financial Memorandum

No financial implications are involved in this Bill as only one President will be associated with the Tribunal.

Memorandum Regarding Delegated Legislation

Clause (2) of section 5 provides for framing of regulations by the Tribunal in respect of the manner of sitting of the Tribunal.

This delegation is of normal character.

Panaji,
12th December, 1996.

DOMNICK FERNANDES
Minister for Law & Judiciary

Assembly Hall,
Panaji,
12th December, 1996.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.

(Annexure to Bill No. 19 of 1996)

The Goa Administrative Tribunal (Amendment) Bill, 1996

The Goa, Daman and Diu Administrative Tribunal Act, 1965

(Act 6 of 1965)

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa, Daman and Diu Administrative Tribunal Act, 1965.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires:—

(a) "Chairman" means the Chairman of the Tribunal;

(b) "Official Gazette" means the Goa, Daman and Diu Government Gazette;

(c) "prescribed", except where it occurs in the expression "prescribed by regulation", means prescribed by rules made under this Act;

(d) "State Government" means the Lieutenant Governor of Goa, Daman and Diu;

(e) "Tribunal" means the Administrative Tribunal constituted by this Act.

3. *Constitution of Tribunal.*— (1) As from the commencement of this Act, there shall be a Tribunal to be called the Administrative Tribunal for the Union Territory of Goa, Daman and Diu to exercise the jurisdiction, perform the functions and discharge the duties entrusted to it by or under this Act or any other law for the time being in force.

(2) The Tribunal shall consist of a Chairman and such number of other Members as may be determined by the State Government.

(3) The qualifications for a person to be appointed as Chairman or a Member shall be such as may be prescribed:

Provided that the Chairman shall be a person who shall have such legal qualifications or experience as may be prescribed.

4. *Vacancies, etc., not to invalidate acts and proceedings of Tribunal.*— (1) No act done by the Tribunal and no proceedings before it shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Tribunal.

(2) If during the course of any proceedings any Member of the Tribunal is for any reason unable to discharge his functions or relinquishes his membership of the Tribunal, another Member shall be appointed in his place and upon his joining the Tribunal, the proceedings shall be continued as if he had been on the Tribunal from the commencement.

5. *Sittings and decisions of Tribunal.*— (1) The Tribunal shall ordinarily sit at Panjim; but may sit at any other place convenient for the transaction of the business, which the Chairman, with the approval of the State Government, may, by general or special order, notify in the Official Gazette.

(2) The Tribunal may sit either as a whole or in Benches of two or more Members with or without the Chairman, in such manner as may be prescribed by regulations.

(3) Where Benches are constituted, every such Bench shall exercise and discharge all the powers and functions of the Tribunal and the final orders in the case shall be expressed to be made by the Tribunal.

(4) Where there is any difference of opinion among the Members (including the Chairman) of the Tribunal or of a Bench thereof, on any point, the decision of the Tribunal or the Bench shall be in accordance with the opinion of the majority of such Members.

(5) Where such opinion is equally divided, the matter shall be referred to the Chairman whose decision thereon shall be deemed to be the decision of the Tribunal or, as the case may be, of the Bench:

Provided that where a Bench consists of the Chairman and any other member or Members and the opinion is equally divided, then, the point shall be referred by the Chairman for hearing by one or more of the other Members of the Tribunal and such point shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard it, including those who first heard it.

(6) When the Tribunal is not sitting either as a whole or in Benches, the Chairman, or any other Member nominated by the Chairman, may sit singly and exercise the powers of the Tribunal in relation to applications for stay of proceedings or execution of appealable orders or any supplemental proceedings and may pass such orders as he deems fit:

Provided that whenever any such order has been passed, it shall be placed before the concerned Bench of the Tribunal at its first sitting after the passing of the said order and that Bench may, after hearing the parties concerned confirm, modify or set aside the order.

Explanation I.— Nothing in this sub-section shall prevent the Chairman or the Member, as the case may be, who passed such order from taking part at its hearing before the concerned Bench of the Tribunal on the ground that it had been passed by the Chairman or the Member, as the case be.

Explanation II.— For the purposes of this sub-section, the expression “supplemental proceedings” shall mean proceedings involving the appointment of a receiver or adjournment of the hearing of a case or any matter incidental to the main case”.

7. *Tribunal to have powers of civil court.*— (1) In exercising its jurisdiction, the Tribunal shall have all the powers of a civil court for —

- (i) taking evidence on oath, affirmation or affidavit;
- (ii) summoning and enforcing the attendance of witnesses;
- (iii) compelling the discovery and production of documents and material objects;
- (iv) requisitioning any public record or any copy thereof from any court or office;
- (v) issuing summons for examination of witnesses or production of documents; and
- (vi) such other purposes as may be prescribed.

(2) The Tribunal shall be deemed to be a civil court for all the purposes of sections 195, 480 and 482 of the Code of Criminal Procedure, 1898, and its proceedings shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

(3) In the case of any affidavit to be filed, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

12. *Indemnity.*— (1) The Chairman or any other Member of the Tribunal shall not be liable to be sued or proceeded against in any court

for any act done or ordered to be done by him or by the Tribunal in the discharge of his or its duty whether or not within the limits of his or its jurisdiction:

Provided that he, at the time, in good faith believed himself to have jurisdiction to do or order the act complained of.

(2) No officer or other person bound to execute the lawful orders of the Tribunal shall be liable to be sued or proceeded against in any court, in respect of the execution of such orders.

13. *Power to make rules.*— (1) The State Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

- (a) the process and other fees to be paid and the deposits to be made by the parties to the proceedings before the Tribunal and the manner of accounting of all moneys received by the Tribunal;
- (b) the powers of a civil court which may be vested in the Tribunal;
- (c) the fee or honoraria to be paid to the Chairman, a Member or the Government pleader;
- (d) any other matter which has to be, or may be prescribed or provided for by rules.

(3) All rules made under this Act shall be published in the Official Gazette and shall be laid on the table of Legislative Assembly after they are made and shall be subject to such modifications as the Assembly may make during the Session in which they are so laid.

14. *Power to make regulations.*— (1) Subject to the provisions of this Act and the rules made thereunder and to the previous approval of the State Government, the Chairman may make regulations for regulating the practice and procedure before the Tribunal.

(2) In particular and without prejudice to the generality of the foregoing power, the Chairman may make regulations for the following matters, namely:

- (a) the award of costs by the Tribunal;
- (b) the right of audience before the Tribunal;
- (c) the sittings of Members in Benches constituted by the Chairman.

(3) The regulations made under this section shall be published in the Official Gazette.

Assembly Hall,
Panaji,
12th December, 1996.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa

Notification

LA/B/4184/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 17-12-1996 is hereby published for general information in pursuance of the provisions of Rule 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 17th December, 1996.

THE GOA PANCHAYAT RAJ (FIRST AMENDMENT)
BILL, 1996.

(Bill No. 21 of 1996)

A

BILL

to amend the Goa Panchayat Raj Act, 1994.

Be it enacted by the legislative Assembly of the State of Goa in the Forty-seventh Year of the Republic of India as follows:—

1. *Short title and Commencement.*—(1) This Act may be called the Goa Panchayat Raj (First Amendment) Act, 1996.

(2) It shall be deemed to have come into force on the 7th day of November 1996.

2. *Amendment of Section 2.*— In section 2 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994) (hereinafter referred to as the “principal Act”),—

(i) after clause (1), the following clause shall be inserted, namely:—

“(1-A) ‘Block Development Officer’ means a person appointed as Block Development officer by the Government;”;

(ii) In clause (7), after the word “district”, the following words shall inserted, namely:—

“and include an Additional Collector”;

(iii) in clause (8), after the words “Zilla Panchayat” the following words shall be inserted, namely:—

“and includes any other officer appointed by the Government in this behalf”;

(iv) after clause (8), the following clause shall be inserted, namely:—

“(8-A)” “Deputy Director” means the person appointed as the Deputy Director of Panchayats by the Government;”

(v) after clause (11), the following clause shall be inserted, namely:—

“(11-A)” “Gram Sevak” means the person appointed by the Director to perform the duties as Gram Sevak.”.

3. *Amendment of section 5.*— In section 5 of the principal Act,—

(i) in sub-section (1), for the words “Chief Executive Officer”, the words “Block Development Officer” shall be substituted;

(ii) in sub-section (5), for the words “Chief Executive Officer of the Zilla Panchayat”, the words “Block Development Officer” shall be substituted.

4. *Amendment Of section 7.*— In section 7 of the principal Act, after the proviso to sub-section (4), the following proviso shall be inserted, namely:—

“Provided further that the Government may, by Order published in the Official Gazette, direct any Panchayat to co-opt, in such manner as may be prescribed, a person belonging to the Scheduled Caste, where there is a reasonable population of the Scheduled Caste but the reservation may not be made.”.

5. *Amendment of section 12.*— In sub-section (2) of section 12 of the principal Act, for the words “Chief Executive Officer”, the words “Block Development Officer” shall be substituted.

6. *Amendment of section 13.*— In section 13 of the principal Act,—

(i) in sub-section (1), for the words “Zilla Panchayat”, the words “Legislative Assembly of the State” shall be substituted;

(ii) in sub-section (2), for the words “Zilla Panchayat”, the words “Legislative Assembly of the State” shall be substituted.

7. *Amendment of section 46.*— In section 46 of the principal Act, after sub-section (5), the following shall be inserted, namely:—

“(6) The procedure for the election of Sarpanch and Deputy Sarpanch shall be such as may be prescribed.”.

8. *Amendment of section 47.*— For section 47 of the principal Act, the following shall be substituted, namely,—

“47. Executive Powers and functions of the Secretary. — Notwithstanding anything contained in this Act and the Rules framed thereunder, the Secretary shall also exercise the powers on the following matters, namely:—

(i) to issue the licences for construction, repairs, modification, alteration, so also occupancy certificate in pursuance of the resolution of the panchayat;

(ii) to initiate action for stopping and or demolishing an unauthorised structure/building constructed without the permission of the Panchayat after resolution is passed to that effect;

(iii) to execute the resolution passed by the Panchayat body.”.

9. *Insertion of new section 47A.*— After section 47 of the principal Act, the following shall be inserted namely:—

“47-A, Executive powers of the Sarpanch.— Notwithstanding anything contained in this Act and the Rules framed thereunder, the Sarpanch shall exercise the powers on the following matters, namely:—

(i) to implement the programme of welfare schemes and other developmental works;

(ii) to executive and implement the resolution passed by the panchayat on the matters not specified in section 47.

10. *Amendment of section 50.* — In section 50 of the principal Act, for sub-section (4) and (5), the following sub-sections shall be respectively substituted namely:—

“(4) Every Sarpanch or Deputy Sarpanch of a Panchayat shall, after an opportunity is afforded for hearing him, be removable from his office as Sarpanch or Deputy Sarpanch by the Director for being persistently remiss in the discharge of his duties or misconducting himself or misuses or abuses the powers or exercising the powers not expressly vested in him by or under the Act or the rules framed thereunder and the Sarpanch or Deputy Sarpanch so removed who does not cease to be a member under sub-section (2) shall not be eligible for re-election as Sarpanch or Deputy Sarpanch for such period not exceeding five years as the Director may specify in his order.

(5) A sarpanch or Deputy Sarpanch removed from his office under sub-section (4) may also be removed by the Director from the membership of the Panchayat for such period not exceeding five years as the Director may specify in his Order”.

11. *Amendment of section 51.* — In section 51 of the principal Act,—

(i) the existing provisions shall be numbered as sub-section (1) thereof;

(ii) in the proviso to sub-section (1) so numbered, for the words “resolution”, the words “notice of motion of no confidence” shall substituted;

(iii) after proviso to sub-section (1) so numbered, the following proviso shall be added, namely:—

“provided further that no notice of motion of no confidence shall be moved within six months after the meeting of panchayat defeating the motion of no confidence.”.

(iv) after sub-section (1) so numbered, the following sub-section shall be inserted namely:—

“(2) The notice of no confidence motion shall be delivered to the Block Development Officer who shall convene a special meeting of the Panchayat to consider the no confidence motion within fifteen days from the receipt of the notice thereof.

(3) A copy of notice of no confidence motion shall also be delivered to the Secretary of the Panchayat.

(4) The procedure to be followed for such a special meeting shall be such as may be prescribed”.

12. *Amendment to section 53.* — In section 53 of the principal Act,—

(i) the existing provision shall be numbered as sub-section (1) thereof;

(ii) after sub-section (1) so numbered, the following sub-section shall be inserted, namely.—

“(2) The procedure for filling up casual vacancies of Sarpanch or Deputy Sarpanch shall be such as may be prescribed.

(3) The date for calling the election to fill up the casual vacancy in the office of Sarpanch or Deputy Sarpanch shall be fixed by the Director within a period of sixty days from the date of occurrence of such vacancy or from the date of intimation to “The Director, whichever is earlier.”.

13. *Amendment of section 54.* — In section 54 of the principal Act,—

(i) in sub-section (1), for the words “a month”, the words “fifteen days” shall be substituted;

(ii) in sub-section (2), for the word “call”, the word ‘hold’ shall be substituted;

(iii) for sub-section (5), the following shall be substituted, namely:

“(5) If the Sarpanch fails to hold a special meeting as provided in sub-section (2), the Block Development Officer shall hold such a meeting within seven days upon the receipt of the written request of not less than one third of the total numbers of members of the Panchayats”.

(iv) after sub-section (5), the following shall be inserted, namely:—

“*Explanation.* — For the purpose of this section, the date of presentation of written request in the office of the Panchayat or the Block Development Officer, as the case may be, shall be the date from which the period is to be counted, “.

14. *Amendment of section 57.* — In sub-section (2) of section 57 of the principal Act, for the words “Chief Executive Officer” the words ‘Block Development Officer’ shall be substituted.

15. *Amendment of section 60.* — In sub-section (3) of section 60 of the principal Act, for the words “Adhyaksha of the Zilla Panchayat”, the word “Director” shall be substituted.

16. *Amendment of section 64.* — In sub-section (1) of section 64 of the principal Act,—

(i) in clause (b), the word “and” shall be omitted;

(ii) after clause (c), the following clauses shall be inserted, namely:—

“(d) incur expenditure not exceeding rupees one thousand per month on any matter in an emergency and in public interest;

(e) recommend or not, the sanction of any kind of leave to all the officers and employees of the Panchayat including the Gram Sevak;

(f) place all the correspondence received from the Government, Director, Chief Executive Officer, before the meeting of the Panchayat;

(g) hold regular Gram Sabha and other meetings of the Panchayat;

(h) recover the tax, fees and other dues from the defaulters of the Panchayat;

(i) place the audit report before the meeting of the Panchayat and ensure its due compliance;

(j) stop any unauthorised construction erected in the Panchayat area notwithstanding anything contained in sub-section (3) of section 66 of this Act and place the matter immediately before the ensuing meeting of the Panchayat for taking suitable decision;

(k) remove encroachment and obstruction upon public property, street, drains and open sites not being private property;

(l) ensure due compliance of the provisions of the Act; and

(m) comply with the directions/instructions issued by the Director, Chief Executive Officer, Deputy Director or Block Development Officer."

17. *Amendment of section 66.*— In section 66 of the principal Act,—

(i) for sub-section (2), the following shall be substituted, namely:—

"(2) If the Panchayat does not, within thirty days from the date of receipt of application, determine whether such permission should be given or not and communicate its decision to the applicant, the applicant may file an appeal within thirty days from the date of expiry of aforesaid period, to the Deputy Director, who shall dispose of the same within thirty days from the date of filing of such appeal. If the Deputy Director fails to dispose of the appeal within thirty days, such permission shall be deemed to have been given and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or bye-laws made under this Act."

(ii) in clause (b) of sub-section (3), the words "as it may deem necessary for the promotion of public health or the prevention of danger to life or property" shall be omitted;

(iii) existing sub-section (5) shall be omitted;

(iv) after sub-section (4), the following shall be inserted namely:—

"(5) Where the panchayat fails to demolish the building which is erected, added to or reconstructed without the permission of the Panchayat or in any manner contrary to the rules made under the Act or any conditions imposed in the permission, within a month from the date of the knowledge, the Deputy Director shall assume the powers of the panchayat under sub-section (3), (4) and (5) and take such steps as may be necessary for the demolition of such building.

(6) Notwithstanding anything contained in the foregoing provisions, the Block Development Officer concerned may, by notice addressed to the person responsible, stop any construction which is being constructed in violation of the provisions of the Act or rules or bye-laws made thereunder and refer the case to the Deputy Director of Panchayats. On receipt of the notice, such person shall forthwith stop the same.

(7) An appeal shall lie to the Director, within a period of thirty days from any order or direction or notice issued under any of the provisions of this section and the decision of the Director on such appeal shall be final."

"Explanation.— For the purpose of this section, failure to communicate the decision by the Panchayat under sub-section (2) and failure to demolish the building under sub-section (3) and (4) shall be deemed to be 'remiss' in the performance of duties by the Panchayat."

18. *Amendment of section 68.*— In section 68 of the principal Act, - the existing provisions shall be numbered as sub-section (1) thereof and after sub-section (1) so numbered, the following shall be inserted, namely:—

"(2) The provisions of sub-sections (2), (3), (4), (5), (6) and Explanation to section 66 of the Principal Act shall apply mutatis mutandis, to this section."

19. *Amendment of section 72.*— In sub-section (3) of section 72 of the principal Act, for the words "Chief Executive Officer" the word "Director" shall be substituted.

20. *Amendment of section 100.*— In section 100 of the principal Act, -

(i) the existing provisions shall be numbered as sub-section (1) thereof;

(ii) after sub-section (1) so numbered, the following shall be inserted, namely:—

"(2) The provisions of sub-sections (2), (3), (4), (5) and (6) and explanation to section 66 shall, mutatis mutandis, apply to this section,".

21. *Insertion of new sections.*— After section 112 of the principal Act, the following sections shall be inserted, namely:—

"112. A — *Stray cattles.*— Notwithstanding anything contained in section 112 or in any other law for the time being in force, every Panchayat shall establish cattle pounds and may appoint pound keepers with the approval of the Director. The duties of pound keepers shall be such as may be prescribed. Every pound keeper so appointed shall, in the performance of his duties, be subject to the directions and control of the Panchayat.

112. B.— *Penalty for allowing cattle to stray in streets or to trespass in public or private property.*— (1) Whoever, within the limits of a village, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall on conviction be punished,—

(i) for the first offence with a fine which may extend to rupees two hundred;

(ii) for a second or subsequent offence with a fine which may extend to five hundred rupees.

(2) An offence under this section shall be cognizable.

112. C — *Impounding of cattle.* — (1) It shall be the duty of every Police Officer and a Panchayat or the Block Development Officer to seize and take to any pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property or causing damage thereto within the limits of the Panchayat.

(2) Whoever forcibly opposes the seizure of cattle liable to be seized under the Act and whoever rescues the same after the seizure, either from a pound or from any person taking or about to take them to a pound shall, on conviction, be punished with imprisonment for a term not exceeding six months or with a fine of Rs. 1,000/- or with both.

112. D. — *Delivery of cattle claimed.* — If the owner of cattle which are impounded under section 112 C or his agent appears and claims the cattle, the Panchayat or Block Development Officer, as the case may be, shall deliver them to him on payment of the pound fees and expenses chargeable in respect of such cattle as the Government may, from time to time, by notification in the Official Gazette, specify for each kind of cattle.

112. E. — *Sale of cattle not claimed.* — (1) If, within seven days after any cattle has been impounded, no person claiming to be the owner of such cattle, offers to pay the pound fee and expenses chargeable under section 112 D, such cattle shall be forthwith sold by auction in the prescribed manner and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person who within fifteen days after the sale, proves to the satisfaction of such Officer as the Panchayat authorities appoint in this behalf or the Block Development Officer that he was the owner of such cattle and shall, in any other case, from part of the Panchayat fund.

(2) No Police Officer or any Officer or Official from the Office of the Block Development Officer or Zilla Panchayat or member or an employee or servant of the Panchayat including the pound keeper shall, directly or indirectly, purchase any cattle at a sale under sub-section (1).

112. F. *Complaint of illegal seizure or detention.* — (1) Any person whose cattle has been seized under the Act or having been so seized, have been detained in contravention of the Act, may at any time within seven days from the date of seizure, make a complaint to the Deputy Director.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Deputy Director on examining the complainant or the agent sees reasons to believe the complaint to be well founded, he shall summon the person complained against and make an enquiry into the case.

(3) If the seizure or detention be adjudged illegal, the Deputy Director shall award to the complainant for the loss

caused by the seizure or detention, reasonable compensation not exceeding two hundred rupees to be paid by the person who made the seizure or detained the cattle together with all fees paid and expenses incurred by the complainant procuring the release of the cattle, and, if the cattle have not been released, the Deputy Director shall, besides awarding such compensation, order their release.

(4) The compensation, fees and expenses mentioned in this section may be recovered as an arrears of land revenue.

(5) An appeal shall lie to the Director, within a period of 30 days from any order or direction of the Deputy Director under sub-sections (2), (3) or (4) and his decision, on such appeal, shall be final.

(6) The Government may sanction grants to the Panchayat for establishment of cattle pounds and or towards the expenses incurred by the Panchayat for the maintenance of cattle on such conditions as may be prescribed.

Explanation. — For purpose of section 112 A to 112 F, "cattle" means and includes tamed animals such as bulls, bullocks, heifers, cows, and their young, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, swine, sheep, rams, lambs, goats and kids."

22. *Insertion of new sections.* — After section 113 of the principal Act, following new sections shall be inserted namely:-

"113-A. *Duties, powers and responsibilities of Panchayat Secretary.* — Notwithstanding anything contained in this Act and the Rules framed thereunder, the Panchayat Secretary shall also exercise and perform the below mentioned duties and shall be responsible for omissions in such duties:-

(i) attend every meeting of the Panchayat including Gram Sabha meetings, unless he is precluded from attending the meeting due to unavoidable circumstance;

(ii) write the proceeding of every meeting in the minutes book;

(iii) place all the correspondence received by him, specially various scheme of the Government, instructions issued by the Director and other authorities (except those of confidential nature) before the Sarpanch and also for the information of all members during the meeting;

(iv) receive all correspondence, scrutinize the same and dispose off after having satisfied that the same are complete in all respects;

(v) finalize the agenda of every meeting in consultation with the Sarpanch;

(vi) report, within seven days to the Block Development Officer any vacancy in the office of the Sarpanch or Deputy Sarpanch or a member caused due to death, resignation or continuous absence for more than three consecutive ordinary meetings of the Panchayat;

(vii) report to the Block Development Officer any illegal act or misconduct or misuse or abuse of powers or any infringement of the provisions of this Act by the Sarpanch or Deputy Sarpanch or the members of the Panchayat as soon as the same comes to his knowledge.

(viii) report, as soon as possible, to the Block Development Officer, if any member of the Panchayat attracts disqualification under section 10 of this Act;

(ix) maintain all the registers prescribed under various Rules and other Registers as may be directed by the Block Development Officer.

(x) responsible for safe custody of Panchayat funds, assets of Panchayat and all the Registers maintained by the Panchayat;

(xi) comply with the instructions issued by the Block Development Officers and superior authorities from time to time;

(xii) maintain cordial relations with the elected representatives;

(xiii) ensure that the grants released by the Government under Grant-in-Aid for specific purpose is not spent by the Panchayat for any purpose other than the purpose for which it is sanctioned.

113. B.— *Duties and functions of Gram Sevak.*— The Gram Sevak shall perform the duties and functions entrusted to him from time to time by the Block Development Officer or the Director.

23. *Amendment of section 153.*— In sub-section (3) of section 153 of the principal Act,—

- (i) in clause (20), the word “and” shall be omitted;
- (ii) in clause (h), for the figure “.”, the figure “;” shall be substituted;
- (iii) after clause (h), the following clauses shall be inserted, namely:

- “(i) lighting tax;
- (j) drainage tax;
- (k) tax on profession, trades, calling and employment,
- (l) fees for sale of goods in meals, fairs and festivals;
- (m) octroi.”.

24. *Amendment of section 173.*— In section 173 of the principal Act, after the words “Chief Executive Officer” and before the words “in case of”, the words and figure “and the Director or any other Officer authorised by him in this behalf”, shall be inserted.

25. *Amendment of section 180.*— In section 180 of the principal Act,—

- (i) in clause (b) of sub-section (1), for the words “two-thirds” the words “one half” shall be substituted;

- (ii) in sub-section (2), after the expression “Adhyaksha or Upadhyaksha of such panchayats”. and before the words “charged with carrying out” the words “the Sarpanch or the Deputy Sarpanch or members” shall be inserted.

26. *Amendment of section 182.*— In section 182 of the principal Act, in sub-section 2, after the words “Zilla panchayat” and before the words “before such date” the words “and the Block Development Officer” shall be inserted.

27. *Amendment of section 185.*— In section 185 of the principal Act, after the words “Zilla panchayat” “wherever they occurred, the words “and the Block Development Officer” shall be inserted.

28. *Amendment of section 187.*— In sub-section (5) of section 187 of the principal Act, for the expression “and to the Chief Executive Officer” the figure and expression “the Chief Executive Officer and Director” shall be substituted.

29. *Amendment of section 200.*— In section 200 of the principal Act,—

- (i) in sub-section (1), for the words “consultation with the Zilla panchayat concerned” the words and figures “conducting an enquiry” shall be substituted, (ii) in sub-section (7), in clause (a), for the expression “Zilla panchayat or the Government, as the case may be” the word “Government” shall be substituted.

30. *Amendment of section 201.*— In sub-section (1) of section 201 of the principal Act, the figure “100” shall be omitted.

31. *Insertion of new section.*— After section 201 of the principal Act, the following new section shall be inserted, namely:—

“201-A (1) *Appeal on miscellaneous matters dealt by the Panchayats.*— Where no appeal has been specifically provided in this Act on any miscellaneous matters which is dealt with by the panchayat or the Village Panchayat Secretary or the Sarpanch, an appeal shall lie to the Block Development officer within a period of thirty days from the date of refusal of any request by the said authority and his decision on such appeal, subject to the provision of sub-section (2), shall be final.

Explanation.— For the purpose of this section, “refusal” means rejecting of any request in writing or non conveying of any reply to the application within a period of fifteen days from the receipt of application in his office.

(2) A revision shall lie to the Deputy Director against any order passed by the Block Development Officer Under sub-section (1) within a period of thirty days from the date of the order”.

32. *Insertion of new section.*— After section 210 of the principal Act, the following new section be inserted, namely:—

“210-A *Liability of members for removal.*— A member of a panchayat shall, after an opportunity is afforded for hearing him, be Removable from his office as a member by an order

passed by the Director, for persistent remiss in the discharge of his duties, or if such member acts detrimental to the interest of the panchayat or misuses or abuses the powers or exercises powers which are not expressly vested in him by or under this Act or rule or bye laws framed thereunder and the member so removed shall not be eligible for re-election for a period not exceeding five years as the Director may specify in his order".

33. *Amendment of section 226.*— in section 226 of the principal Act, after sub-section (3), the following shall be inserted, namely:—

"(4) No suit shall lie against the Government for carrying out any development activities specified in Schedule I and II to the Act or any other development work".

34. *Insertion of new sections.*— After section 239 of the principal Act, the following new sections shall be inserted, namely:—

"239-A- *Powers of officers.*— The Officers appointed under this Act, namely, the Director, the Chief Executive Officer, the Deputy Director and the Block Development Officer, shall have the same powers in making inquiries under this Act and the rules framed thereunder as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying any petition or appeal, namely:—

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person and examining him on oath;
- (c) compelling the production of documents;
- (d) awarding costs.

239-B- *Limitation and Court fees.*— (1) Every appeal or petition made under the provisions of this Act or the rules made thereunder shall be filed within the limitation period provided therein and the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 (Central Act 36 of 1963) shall apply to the filing of such appeal or petition.

(2) Notwithstanding anything contained in the Court Fees Act, 1870 (Central Act 7 of 1870), every appeal or petition made under this Act to the Officers appointed under this Act shall bear a Court fee stamp of such value as may be prescribed.

239-C- *Procedure.*— (1) Subject to the other specific provisions in this behalf, the procedure to be followed by the Officers in all inquiries, appeals and proceedings under this Act and the rules framed thereunder shall be such as may be prescribed.

(2) Every decision or order passed under this Act shall be recorded in the form of an order which shall state the reasons therefor.

(3) All inquiries and proceedings before the Officers shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

35. *Insertion of new section.*— After section 244 of the principal Act, the Following new section shall be inserted, namely:—

"241. A-*Delegation of powers.*— (1) The Government may, by notification in the Official Gazette, delegate all or any

of its powers and duties under the Act, except the power to make rules under section 240, to any Officer subject to such conditions, if any, as may be specified in the notification.

(2) The Director, with the previous approval of the Government, may delegate any of his powers conferred upon him under the Act to any Officer subordinate to him subject to such conditions, if any, as may be specified in the notification;

Provided that nothing shall prevent the Government or the Director to exercise any of the powers on such matters which are assigned under sub-section (1) and (2), as the case may be."

36. *Insertion of new section.*— After section 244 the principal Act, the following new section shall be inserted, namely:—

"244.A- *Power of Government to exercise any function.*— Notwithstanding anything contrary contained in the Principal Act the Government may, in the public interest, exercise any of the functions enumerated in Schedules I and II appended to the Principal Act, for the purpose of carrying out any developmental work in the jurisdiction of the Panchayat, without consultation with the Panchayat or Zilla Panchayat."

37. *In schedule I appended to the principal Act, under item I, after sub-item (6) insert the following:*

"(7) Demolition of unauthorised construction."

38. *In Schedule III appended to the principal Act, under item A, in sub-item (1).*

(i) for the words 'such percentage of the annual letting value as may be prescribed'. the words "such rate of tax as may be prescribed" shall be substituted,

(ii) the "Explanation" shall be deleted.

39. *Repeal and Saving.*— (1) The Goa Panchayat Raj (First Amendment) Ordinance, 1996 (Ordinance No.2 of 1996) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Statement of Objects and reasons

In the Goa Panchayat Raj Act, 1994 (Act 14 of 1994), the role of the Deputy Director of Panchayat, and the Block Development Officer, although they are connected with Panchayats, is not specified. In fact direct control and supervision over the Panchayats is exercised by the Block Development Officers and therefore, it is necessary to arm the Block Development Officers with certain powers under the Act. It is, therefore, proposed that certain powers of the Chief Executive Officers be entrusted to the Block Development Officers without affecting basic structure of the Zilla Panchayat. It is also proposed to confer certain powers to the Deputy Director of Panchayats. The present Bill seeks to amend various provisions of the Act for the purpose.

2. It is proposed to amend section 7 of the Act so as to provide therein for the co-option of a member from a person belonging

to the Scheduled Castes where there is reasonable population of the Scheduled Castes but the reservation cannot be made. At present, the question of disqualification of a member who remains absent for more than three consecutive meetings is to be decided by the Chief Executive Officer under sub-section (2) of section 12 of the Act. Since Block Development Officers are being authorised to carry out the inspections of the Panchayats, it is the Block Development Officer who will have the information about the absentism of the member of the Panchayats for more than three consecutive meetings. At present, even though a member remains absent for a long period the fact is not reported to the Chief Executive Officer by some of the Panchayats. Hence, it is necessary to empower the Block Development Officer to decide this issue. It is, therefore, proposed to amend sub-section (2) of section 12 of the Act so as to empower the Block Development Officer to decide this issue instead of the Chief Executive Officer.

3. As per section 13 of the Act for the preparation of electoral roll of the Panchayats, the electoral roll of the Zilla Panchayats to be adopted. As we do not have Zilla panchayat in Goa, it is necessary to amend this section so as to adopt the Assembly roll instead of that of the Zilla Panchayats. Amendment to this section intends to achieve this object.

4. At present, there is no provision in the Act prescribing the procedure of for the election of Sarpanch or deputy Sarpanch. Amendment to section 46 intends to achieve this objective.

5. It is proposed to amend section 47 of the Act so as to impose certain responsibilities on the Village Panchayat Secretary. It is also proposed to incorporate new section 47-A in the Act empowering the Sarpanch to implement the programme of welfare schemes as well as developmental works and execute and implement the resolution passed by the Panchayat Body.

6. It is proposed to amend sub-section (4) and (5) of section 50 of the Act so as to widen the scope for removal of the Sarpanch or Deputy Sarpanch. It is proposed to amend section 51 of the Act so as to impose a ban for bringing a no confidence motion within a period of six months after the no confidence motion is defeated.

7. Amendment to section 53 seeks to prescribe the procedure for filling up of casual vacancies of Sarpanchas and Deputy Sarpanchas. It is proposed to amend section 54 of the Act so as to have an ordinary meeting of the Panchayats once in fifteen days. Sub-section (5) is also proposed for amendment authorising the Block Development Officer to convene a special meeting whenever Sarpanch fails to call a meeting. Amendment to sub-section (2) of section 57 provides for furnishing the copy of the minutes of the meeting of the Panchayat to the Block Development Officer instead of Chief Executive Officer. The Bill also seeks to amend section 64 of the Act so as to clearly specify functions, duties and responsibilities.

8. It is proposed to amend section 66 of the Act so as to provide for filing an appeal to the Deputy Director where the Panchayat does not communicate its decision on the application for permission for the construction of building and the Deputy Director shall dispose of the said appeal within thirty days. It is only on failure of the Deputy Director to dispose of an appeal within thirty days, deeming provisions will apply. Section 64 is

also being proposed to be amended so as to empower the Sarpanch to exercise and perform various specific functions and duties.

9. Amendments to section 66 are also made applicable to section 68 and section 100 which deal with the permission for factories and huts. It is also proposed to amend section 72 of the Act so as to provide for an appeal to the Director against the decision of the Panchayat instead of Chief Executive Officer since the appeal is u/s lies to the Director.

10. New sections from 112A to 112F have been inserted in the Act dealing with the impounding of stray cattle, imposition of fines, seizures, etc.

11. New section 113-A is proposed for incorporation specifying the duties powers and responsibilities of the Village Panchayat Secretary. Similarly, section 113-B is incorporated empowering the Director or Block Development Officer to entrust the duties and functions to the Gram Sevak.

12. It is proposed to amend section 153 of the Act so as to incorporate therein certain taxes such as lighting taxes, drainage taxes, trade taxes, octroi, etc. with a view to enable the Panchayats to raise their revenues. It is proposed to amend section 180 of the Act so as to enable the Government to appoint Administrator where all the members or more than half of the members of the Panchayat resign. Section 182 and 185 of the Act are proposed for amendment so that a copy of the budget and annual accounts are sent to the Block Development Officers in addition to the Zilla Panchayats.

13. It is proposed to amend sub-section (5) of section 187 of the Act so that the auditor can send a copy of the Audit report to the Director in addition to the Chief Executive Officer.

14. Sub-section (1) of section 200 of the Act is proposed for amendment so as to enable the Government to dissolve the Panchayat after conducting an inquiry without consultation with the Zilla Panchayat.

15. New section 201-A has been incorporated whereby provision is made for filing an appeal to the Block Development Officer in miscellaneous matters.

16. New section 210-A is proposed to be incorporated in the Act so as to provide for removal of members for persistent remiss in the discharge of duties, mis-use or abuse of powers or exercise of powers not vested, for a period not exceeding five years. New sub-section (4) has been added to section 226 of the Act barring the suit against the Government for undertaking any developmental activities specified in Schedule I or Schedule II appended to the Act.

17. New section 239-A, 239-B and 239-C are proposed to be incorporated in the Act conferring certain powers under the Code of Civil Procedure, 1908 on the Officers in trying petition or appeal, making applicable certain provisions of the Limitation Act in the matter of inquiries, appeal and proceedings.

18. New section 241-A is proposed to be incorporated in the Act empowering the Director to delegate powers vested in him. A new section 244A is also proposed to be incorporated in the Act empowering the Government to exercise any of the functions enumerated in Schedule I or Schedule II appended to Act for the purpose of carrying out any developmental activities within

the jurisdiction of the Panchayats without consultation with the Panchayats or Zilla Panchayats. This will enable the Government to undertake any developmental works specified in Schedule I and Schedule II. This Bill seeks to achieve the above objects.

19. This Bill seeks to replace the Goa Panchayat Raj (First Amendment) Ordinance 1996 (Ordinance No. 2 of 1996). Besides the provision has been made that anything done or action taken under the said Ordinance has been saved or be deemed to have been done or taken under the Principal Act as amended by the said Ordinance.

Financial Memorandum

The proposed Bill does not involve any financial implications. However, proposed sub-section (6) of section 112-F provides that the Government may sanction grants to the Panchayats for establishment of cattle pounds and or towards the expenses incurred by the Panchayat for the maintenance of cattle. In fact there is already a provision in the Budget Estimates under the plan to provide assistance to the Panchayat for establishment of cattle pounds.

Memorandum on delegated legislation

Sub-section (6) of section 46 provides for the framing of rules regarding the procedure to be followed for the conduct of election of Sarpanch and the Deputy Sarpanch.

Sections 112-A, 112-F provides for the making of the rules in respect of the matters provided therein. Similarly, new section 241-A empowers the Government and the Director to delegate their powers to subordinate officers.

Panaji
13th December, 1996

SUBHASH A. SHIRODKAR
Minister for Panchayats

Assembly Hall,
Panaji
14th December, 1996

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa

(Annexure to Bill No. 21 of 1996)

The Goa Panchayat Raj (First Amendment) Bill, 1996

The Goa Panchayat Raj Act, 1994

Act

2. Definitions.— In this Act, unless the context otherwise requires,—

(1) “Backward classes” means such classes of citizens as may be notified by the Government from time to time as belonging backward class;

(2) “building” includes a house, outhouse, stable, privy, urinals, shed, hut, wall and any other structure whether of masonry, bricks, wood, metal or any other material, but does not include a temporary structure erected on ceremonial or festive occasion or a tent;

(3) “Sarpanch” means the Sarpanch of a Panchayat.

(4) “Deputy Sarpanch” means the Deputy Sarpanch of a Panchayat.

(5) “Adhyaksha” means the Adhyaksha of a Zill Panchayat.

(6) “Upadhyaksha” means the Upadhyaksha of a Zill Panchayat.

(7) “Collector” means the Collector of the district;

(8) “Chief Executive Officer” means the Chief Executive officer of a Zilla Panchayat;

(9) “Director” means the person appointed as Director of Panchayat under this Act;

(10) “district” means a revenue district;

(11) “Government” means the Government of Goa;

(12) “land” includes land which is built upon or covered with water;

(13) “Notification” means a Notification published in the Official Gazette;

(14) “Panchayat” means a Village Panchayat established under section 3;

(15) “erection or re-erection or enlargement” of any building includes,—

(i) any material alteration or enlargement or in any building;

(ii) the conversion, by structural alteration, into a place or human habitation of any building not originally meant or constructed for human habitation;

(iii) the conversion of one or more place of human habitation into a greater number of such places;

(iv) the conversion of two or more places of human habitation into a lesser number of such places;

(v) such alteration of a building as would effect a change in the drainage or sanitary arrangements or materially affect its security;

(vi) the addition of any rooms, buildings, houses or other structures to any building;

(vii) the conversion, by any structural alteration into a place of religious worship or into a building not originally meant or constructed for such purposes;

(viii) roofing or covering an open space between wall or buildings, in respect of the structure which is formed by roofing or covering such space;

(ix) conversion into a stall, shop, warehouse or godown or any building not originally constructed for use as such or vice versa;

(x) construction of a door in a wall adjoining any street or land not vested in the owner of the wall and opening in such street or land;

(16) "factory" means besides a factory as defined in the Factories Act, 1948 (Central Act 13 of 1948), any premises including the precincts thereof wherein any industrial manufacturing or trade process is carried on with the aid of steam, water, oil gas electrical or any other form of power which is mechanically transmitted and is not generated by human or animal agency;

(17) "prescribed" means prescribed by rules framed under this Act;

(18) "Schedule" means a Schedule appended to this Act;

(19) "Scheduled Castes and Scheduled Tribes" means such Scheduled Castes and Scheduled Tribes specified in respect of the State of Goa under the Constitution;

(20) "Secretary" means the Secretary of the panchayat;

(21) "Zilla Panchayat" means a Zilla Panchayat established under this Act

5. *Meeting of Gram Sabha.*— (1) There shall be a meeting of Gram Sabha called by the Sarpanch or in his absence or in default by the Chief Executive Officer once in six months on such date and at such time and place as may be prescribed;

Provided that the Sarpanch shall, upon a requisition in writing by not less than one fifth of number of members and within thirty days of the receipt of such requisition, call an extraordinary general meeting of the Gram Sabha.

(2) the Sarpanch or, in his absence, the Deputy Sarpanch, or in the absence of both, any person chosen by the Gram Sabha shall preside at such meeting.

(3) One-tenth of the total number of members of the Gram Sabha shall the quorum for the meeting.

(4) When there is no quorum for any meeting, after fifteen minutes from the appointed time, the meeting shall stand adjourned for half an hour and when it re-assembles, no quorum shall be necessary to transact the business communicated to members the agenda of the appointed meeting.

(5) An officer nominated by the Chief Executive Officer of the Zilla Panchayat shall attend the Gram Sabha meetings.

7. *Constitution of Panchayats.*— (1) A Panchayat shall consist of, such number of members as the Government may, by order determine, so far as may be in accordance with the following Table:—

TABLE

| Panchayat with a Population of | Number of members | Classification |
|---|-------------------|----------------|
| (1) 1500 or more but not more than 2000 | 5 | D |
| (2) more than 2000 but not more than 5000 | 7 | C |
| (3) more than 5000 but not more than 8000 | 9 | B |
| (4) more than 8000 | 11 | A |

(2) All the members of a Panchayat shall be elected.

(3) The Director shall divide each panchayat area into wards the number of which shall be equal to the number of members determined in respect of such Panchayat under sub-section (1).

(4) In every Panchayat, seats shall be reserved for the Scheduled Caste and the Scheduled Tribes and the number of seats reserved shall bear as nearly as may be, the same proportion to the total number of seats in the Panchayat as the population of the Scheduled castes and the Scheduled Tribes in the panchayat area bears to the total population of the panchayat area:

Provided that Government may by notification reserve any seat reserved for Scheduled Castes and Scheduled Tribes for women belonging to the Scheduled castes or as the case may be, the Scheduled Tribes.

(5) The Government may, by notification, reserve such number of seats in any Panchayat as may be considered necessary, taking into account the population of the backward classes in the panchayat area, for persons belonging to the backward classes.

(6) Not less than one third (including the number of seats reserved for women belonging to Scheduled Casts or Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women.

Provided that the seats reserved under sub-sections (4), (5) and (6) shall be allotted by rotation to different wards in the panchayat area:

Provided further that nothing contained in this section shall be deemed to prevent a women or a person belonging to the Scheduled Castes and Scheduled Tribes or Backward Classes from contesting for elections to any non-reserved ward in such Panchayat.

(7) Notwithstanding anything contained in sub-section (1), where twothird of the total number of members are required to be elected or have been elected, failure to elect the remaining members shall not affect the constitution of the Panchayat.

(8) The Direction shall publish, in the prescribed manner, the names of members elected or deemed to have been duly elected to a Panchayat.

10. *Disqualification for membership.*— A person shall be disqualified for being chosen, and for being, a member of the Panchayat if,—

(a) he is so disqualified by or under any law for the time being in force for the purposes of the elections to the State Legislature;

Provided that no person shall be disqualified on the ground that he is less than twenty five years, if he has attained the age of twenty-one years;

(b) he has been dismissed from service of the Government or any local authority;

(c) he holds any office of profit under any local or other authorities subject to the control of the Central Government, the State Government or the Government of any other States, other than such offices as are declared by rules made under this Act not to disqualify the holder;

(d) he is in arrears for such period as may be prescribed of any tax, fee or other sum due to the Panchayat;

(e) he has been convicted by a court of any offence involving moral turpitude and five years have not been elapsed since his release; or

(f) he has directly or indirectly any share or monetary interest in any work done by or to the Panchayat or any contract or employment with, under or by on behalf of, the Panchayat.

(g) he is employed in any Corporation, where Statutory or otherwise, owned or controlled or financed in part or fully, by the Central Government or the Government or any State Government.

12. *Vacation of seat by members.*— (1) If a member of a Panchayat,—

(a) is or becomes subject to any of the disqualifications mentioned in section 10; or

(b) absents himself for more than three consecutive ordinary meeting of the Panchayat without the leave of the Panchayat or is absent from the State of Goa for more than four consecutive months:

Provided that when an application is made by a member for leave to the Panchayat for leave to absent himself and the Panchayat fails to inform the applicant of its decision on the application within a period of one month from the date of the receipt of the application by the Panchayat, the leave applied for shall be deemed to have been granted by the Panchayat.

(c) absent himself with leave of the Panchayat for a period not exceeding six months but fails to attend the next meeting of Panchayat after the expiry of such leave.

(d) votes or takes part in discussion in contravention of the provisions of sub-section (4) of section 55, his seat shall be deemed to be or to have become, as the case may be, vacant.

(2) If any question arises as to whether a person is or has become subject to disqualification under clause (b) or clause (c) of sub-section (1), the Chief Executive Officer may either suo moto or on a report made to him and after giving an opportunity to the person concerned of being heard, decide the question whose decision shall be final.

13. *List of voters.*— (1) Subject to the provisions of sub-section (2), the electoral roll of the Zilla Panchayat for the time being in force for such part of the ward of a Panchayat shall be deemed to be the list of voters for such panchayat wards.

(2) No amendment, transposition or deletion of any entry in the electoral roll of the Zilla Panchayat made, after, the last date of making nominations for an election in any Panchayat ward and before the completion of such election shall form part of the list of voters for such election for the purpose of this section.

46. *Procedure for Election of Sarpanch and Deputy Sarpanch.*— (1) At the first meeting of the Panchayat to be called on a day fixed by the Government the members of the Panchayat shall elect, from amongst themselves a Sarpanch and a Deputy Sarpanch.

(2) Such officer as may be specified in this behalf by the Government shall preside at such meeting but shall not have the right to vote.

(3) No business other than the election of the Sarpanch and Deputy Sarpanch shall be transacted at such meeting.

(4) In case of equality of votes, the result of the election shall be decided by lots drawn in the presence of the Officer aforesaid in such manner as he may determine.

(5) In the event of a dispute arising as to the validity of the election of the Sarpanch or the Deputy Sarpanch, the dispute shall be referred to such authority as may be specified by notification by the Government and the decision of such authority thereon shall be final.

47. *Sarpanch to be the executive.*— The Executive powers of the Panchayat under this Act and the responsibility for the due fulfilment of the duties imposed on the panchayat under this Act and for carrying out the resolution of the Panchayat shall vest in the Sarpanch:

Provided that the Sarpanch may by order delegate any of his powers under this Act to the Deputy Sarpanch subject to such restrictions and conditions as may be specified in the order:

Provided further that whenever the Sarpanch is on leave, or expires or resigns or is disqualified the Deputy Sarpanch shall exercise all the powers and perform all the functions and duties of the Sarpanch under this Act.

50. *Resignation or Removal of Sarpanch or Deputy Sarpanch.*— (1) The Sarpanch of the Panchayat may resign his office by writing under his hand addressed to the Director and the Deputy Sarpanch of the Panchayat may resign his office by writing under his hand addressed to the Sarpanch and in the absence of the Sarpanch to the Director.

(2) Every Sarpanch or Deputy Sarpanch of the Panchayat shall be deemed to have vacated his office forthwith if he ceases to be a member of the Panchayat.

(3) Every resignation under sub-section (1) shall take effect on the expiry of ten days from the date of its receipt by the Director or the Sarpanch as the case may be, unless within the period of ten days he withdraws such resignation by writing under his hand.

(4) Every Sarpanch or Deputy Sarpanch of panchayat shall, after an opportunity is afforded for hearing him, be removable from his office as Sarpanch or Deputy Sarpanch by the Director for being persistently remiss in the discharge of his duties and the Sarpanch or Deputy Sarpanch so removed who does not cease to be a member under sub-section (2) shall not be eligible for re-election as Sarpanch or Deputy Sarpanch during the remaining term of office as member of such Panchayat.

(5) A Sarpanch or Deputy Sarpanch removed from his office under sub-section (4) may also be removed by the Director from the membership of the Panchayat.

51. *Motion of no confidence against Sarpanch and Deputy Sarpanch.*— Every Sarpanch or a Deputy Sarpanch shall forthwith be deemed to have vacated his office if a resolution expressing want of confidence in him is passed by a majority of a total members of the panchayat at a meeting specially convened for the purpose:

Provided that no such resolution shall be taken into consideration unless it is signed by the majority of the members.

53. *Causal vacancies.*— A causal vacancy in the office of Sarpanch or Deputy Sarpanch shall be filled by election of Sarpanch or Deputy Sarpanch or member who shall hold office so long as the Sarpanch, Deputy Sarpanch or member in whose place he has been elected would have held office, if the vacancy had not occurred.

54. *Meeting of the Panchayat.*— (1) A Panchayat shall meet for transaction of business at least once in a month at the office of the panchayat and at such time as the Sarpanch may determine.

(2) The Sarpanch may, whenever he thinks fit, and shall, upon the written request of not less than one-third of the total number of members and on a date within fifteen days from the receipt of such request, call a special meeting.

(3) Seven clear days notice of an ordinary meeting and three clear days notice of a special meeting specifying the place, date and time of such meeting and the business to be transacted thereat; shall be given by the Secretary of the Panchayat to the members and such officers as the Government may prescribe, and affixed on the notice board of the panchayat.

(4) The officers to whom notice is given under sub-section (3) and other Government officers having jurisdiction over the panchayat area or any part thereof shall be entitled to attend every meeting of the Panchayat and take part in the proceedings but shall not be entitled to vote.

(5) If the Sarpanch fails to call a special meeting as provided in sub-section (2), the Deputy Sarpanch or one-third of the total number of members may call such a meeting on a day not later than fifteen days after the presentation of such request and require the Secretary of the Panchayat to give notice to the members and to take such action as may be necessary to convene the meeting.

57. *Minutes.* — (1) Minutes shall be kept of the names of the members and of the officers, if any, present, and of the proceedings at each meeting of the Panchayat and if any member present at the meeting so desires, of the names of the members voting respectively for or against any resolution, in a book to be provided for the purpose and after they are read over and agreed to shall be signed by the Sarpanch or Deputy Sarpanch or person presiding at such Meeting and shall at all reasonable times be open to inspection by any member of the Panchayat. Any person may inspect the copy of the minutes of the meeting. The minutes book shall always be kept in the office of the Panchayat and shall be in custody of the Secretary of the Panchayat.

(2) A copy of the minute of every meeting of Panchayat shall within ten days from the date of the meeting, be forwarded by the Secretary to the Chief Executive Officer.

60. *Functions of the Panchayat.* — (1) Subject to such conditions as may be specified by the Government from time to time, the Panchayat shall perform the functions specified in Schedule-I.

(2) The Panchayat may also make, provision for carrying out with the Panchayat area any other work or measure which is likely to promote the health, safety, education, comfort, convenience or special or economic well-being of the inhabitants of the panchayat area.

(3) Panchayat may, by a resolution, passed at its meeting and supported by two-thirds of its total number of members and with the prior approval of the Adhyaksha of the Zila Panchayat.—

(a) make provision for or make contribution towards, any exhibition, conference or seminar within or outside the Panchayat area but within the district; or

(b) make contribution to any medical, educational or charitable institutions or any other Institutions of public utility, within the Panchayat area which are registered under the Societies Registration Act, 1860 (Central Act 21 of 1860) or under any other law for the time being in force.

64. *Powers and duties of the Sarpanch and Deputy Sarpanch.* — (1) The Sarpanch of, the Panchayat shall, in addition to the power exercisable under any other provision of this Act or rules made thereunder,—

(a) convene meeting of the Panchayat;

(b) have access to the records of the Panchayat; and

(c) exercise supervision and control over the acts of the officers and employees of the panchayat.

(2) The Sarpanch may, in his opinion the immediate execution of any work or doing of any act which requires the sanction of a committee or of the Panchayat, is necessary in public interest convene a meeting for the purpose with a notice of twenty four hours.

(3) The Deputy Sarpanch of the Panchayat of the Panchayat shall exercise the powers and perform the duties of the Sarpanch when the Sarpanch is absent, on leave or is incapacitated from functioning.

66. *Regulation of the erection of buildings.* — (1) Subject to such rules as may be prescribed, no person shall erect any building or alter or add to any existing buildings or reconstruct any building without the

written permission of the Panchayat. The permission may be granted on payment of such fees may be prescribed.

(2) If the Panchayat does not, within sixty days from the receipt of the application determine whether such permission should be given or not and communicate its decision to the applicant, such permission shall be deemed to have been given and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules made under this Act.

(3) Whenever any building is erected, added to or reconstructed without such permission or in any manner contrary to the rules prescribed under sub-section (1) or any conditions imposed by the permission granted the panchayat may,—

(a) direct that the building, alteration or addition be stopped; or

(b) by written notice require within a reasonable period to be specified therein, such building, alteration or addition to be altered or demolished as it may deem, necessary for the promotion of public health or the prevention of danger to life or property.

(4) In the event of non-compliance with the terms of any notice under clause (b) of sub-section (3) within the period specified in the notice, it shall be lawful for the Panchayat to take such action as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the Panchayat shall be paid by the person or persons upon whom the notice was served and shall be recoverable as if were a tax imposed under this Act.

(5) An appeal shall lie to the Director within a period of 30 days from any order or direction or notice of the panchayat under sub-section (1), (2) or (3) and his decision on such appeal shall be final.

68. *Permission for the construction of factories and the installation of machinery.* — No person shall without the permission of the Panchayat and except in accordance with the condition specified in such permission,—

(a) construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or other mechanical power or electrical power; or

(b) install in any premises, any machinery or manufacturing plant driven by any power as aforesaid, not being machinery or manufacturing plant exempted by rules made by the Government under this Act.

72. *Provisions applicable to permission and licences.* — (1) A permission shall be granted under section 68 and the licence under sections 69, 70 and 71 shall be granted or renewed, only on payment in advance of such fee as may be prescribed.

(2) The Panchayat may, for reasons to be recorded in writing refuse to grant the permission under section 68 or to grant or renew a licence or suspend or cancel a licence granted or renewed, under sections 69, 70 and 71 for default of any of the conditions subject to which the licence was granted.

(3) Any person aggrieved by the refusal to grant permission under section 68 or to revenue licence, or by the suspension or cancellation of a licence under sub-section (2) may, within thirty days of the date of communication of the order, appeal to the Chief Executive Officer and his decision on such appeal shall be final.

100. *Regulation of huts* — No person shall erect any hut, shed or range or block of huts or sheds or add to any hut or shed already existing in Panchayat area without obtaining previous permission. The Panchayat may require such huts or sheds to be built so that they may stand in regular lines with a free passage or way in front of and between every

two lines of such width as the Panchayat may think proper for ventilation and to facilitate scavenging and at such a level as will admit of sufficient drainage. If any hut or shed is built without obtaining previous permission of the Panchayat, the Panchayat may give written notice to the owner or builder thereof or to the owner or occupier of the land on which the same is erected or is being erected requiring him within such reasonable time as may be specified in the notice, to remove the same or to make such alterations therein or additions therein as having regards to the sanitary considerations, the Panchayat may think fit.

112. *Prohibition of nuisance.*—Whoever, within a panchayat area,—

(a) in any public street or public place,—

(i) eases himself; or

(ii) loiters or begs importunately for alms; or

(iii) exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound; or

(iv) carries meat exposed to public view; or

(v) without proper authority picks animals, or collects carts; or

(vi) without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing; or

(vii) without proper authority affixes upon any building, monument, post, wall, fence, tree or other thing any bill, notice or other document; or

(viii) without proper authority removes, destroys, defaces or otherwise obliterates any notice or other document put or exhibited under this Act or the rules or bye-laws made thereunder; or

(b) at any time or place at which the same has been prohibited by the Panchayat by public or special notice, beats any drum or tom-tom or blows a horn or trumpet or beats any utensil or sounds any brass or other instrument or plays any music; or

(c) without proper authority disturbs the public peace or order by singing, screaming or shouting or by using any apparatus for amplifying or reproducing the human voice, such as megaphone or a loudspeaker; or

(d) lets loose any animal so as to cause, or negligently allows any animal to cause injury, danger, alarm or annoyance to any person; or

(e) uses or permits to be used as a latrine any place not intended for that purpose; shall, on conviction, be punished with fine which may extend to one hundred rupees.

113. *Secretary.*—(1) Every Panchayat shall have a wholetime Secretary who shall be an officer of the Government, and shall draw his salary and allowances from the Panchayat Fund.

(2) The Secretary shall perform all the duties and exercise all the powers imposed or conferred upon him by or under this Act or any rules or bye-laws made thereunder.

153. *Levy of taxes, rates, etc. by panchayats.*—(1) Every Panchayat shall, in such manner and subject to such exemptions as may be prescribed and not exceeding the maximum rate specified in Schedule-III, levy tax upon buildings and lands which are not subject to agricultural assessment, within the limits of the panchayat area;

Provided that where an owner of the building or land has left a panchayat area or cannot otherwise be found, the occupier of such building or land or land shall be liable for the tax leviable on such owner.

(2) A Panchayat may levy water rate for supply of water for drinking and other purposes.

(3) A Panchayat may also levy all or any of the following tax and fees at such rates as the Panchayat may by bye-law determine but not exceeding the maximum specified in Schedule III and in such manner and subject to such exemptions as may be prescribed, namely:—

(a) tax on entertainment other than cinematograph shows;

(b) tax on vehicles, other than motor vehicles;

(c) tax on advertisement and hoarding;

(d) pilgrim fee on persons attending the jatras, festivals, etc., where necessary arrangement, for water supply, health and sanitation are made by the panchayat;

(e) market fee on persons who expose their goods for sale in any market place;

(f) fee on the registration of cattle brought for sale in any market place;

(g) fee on buses and taxies and auto-stands provided adequate facilities are provided for the travellers by the Panchayat; and

(h) fees on grazing cattle in the grazing lands.

173. *Powers of inspection and supervision.*—The Secretary to the Government in charge of Panchayat Raj Department in case of the Zilla Panchayat, and the Chief Executive Officer in case of the Panchayat may,—

(a) inspect the offices or premises of or works taken up by any Zilla Panchayat, or Panchayat and for this purpose examine or cause to be examined the books of accounts, registers and other documents concerned and the Zilla Panchayat, or Panchayat concerned shall comply with the instructions issued after such inspections;

(b) call for any return, statement, account or report which he may think fit to require the Zilla Panchayat or panchayat concerned to furnish.

180. *Power to appoint Administrator in certain cases.*—(1) Whenever,—

(a) any general election to a Zilla Panchayat or Panchayat under this Act or any proceedings consequent thereon has been stayed by an order of a competent court or authority; or

(b) all the members of more than two-thirds of the members of a zilla Panchayat have resigned;

the Government shall, by notification in the Official Gazette, appoint an Administrator for such period as may be specified in the notification and may, by like notification, curtail or extend the period of such appointment, as however the total period of such appointment shall not exceed six months.

(2) Notwithstanding anything contained in this Act, on the appointment of an Administrator under-section (1), and during the period of such appointment, the Zilla Panchayat and the Committees thereof and the Adhyaksha or upadhyaksha of such Panchayat charged with carrying out the provisions of this Act, or of any other law, shall cease to exercise any powers and perform and discharge any duties or functions

conferred or imposed on them by or under this act or any other law and all such powers shall be exercised and all such duties and functions shall be performed and discharged by the Administrator.

182. *Presentation of accounts and budget of Panchayat.*—(1) The Secretary shall prepare and lay before the Panchayat at a meeting, which shall be held between the first day of February and the tenth day of March, a complete account of the actual or expected receipts and expenditure for the financial year ending on the thirty-first day of March next following together with a budget estimate of the income and expenditure, of the Panchayat for the financial year to commence on the first day of April next following.

(2) The Panchayat shall thereupon decide upon the appropriations and the ways and means contained first day of April next following. The budget as passed by the Panchayat shall be sent to the Zilla Panchayat before such date as may be fixed by the Government.

(3) In such budget estimate, the Panchayat shall among other things,—

(a) make adequate and suitable provision for such services as may be required for the fulfilment of the several duties imposed on the Panchayat by this Act, or any other law;

(b) allow for a balance at the end of the year of not less than such sum or percentage of income as may from time to time be fixed by the Government either generally for all Panchayats or specially for Panchayat;

(c) provide for the payment, as they fall due, of all instalments of principal and interest for which the Panchayat may be liable in respect of loans contracted by it.

(4) If such budget estimate is not in accordance with the provisions of this Act or the rules and orders issued thereunder, the Zilla Panchayat may within two months from the date of receipt of the budget, modify the same to secure compliance with this Act, the rules or the orders;

Provided that the Zilla Panchayat shall not have power to direct that total proposed expenditure shall exceed the total of the estimated income of the panchayat for the following year and the opening balance.

(5) If the Panchayat fails to pass the budget estimate on or before the date mentioned in subsection (1), the Secretary shall forward the budget estimate to the Zilla Panchayat and it shall approve it with or without modification. The budget as approved by the Zilla Panchayat shall be certified by the Chief Executive Officer and thereupon shall be deemed to have been duly approved by the Panchayat.

185. *Transmission of accounts.*—The Panchayat shall as soon as the annual accounts have been finally passed by it, transmit a copy thereof to the Zilla Panchayat in the form prescribed and shall furnish such details and vouchers relating to the same as the Zilla Panchayat may, from time to time, direct.

187. *Audit of accounts.*—(1) The accounts of every Panchayat shall be audited each year by such officer as may be authorised by the Director of Accounts of the Government (hereinafter referred to as the 'auditor').

(2) The auditor shall, for the purpose of audit, have access to all the accounts and other records of the Panchayat.

(3) The auditor may,—

(a) require in writing the production before him of such voucher, statements, returns, correspondence, notes or other documents which he may consider necessary for the proper conduct of his audit;

(b) require in writing any person accountable for, or having the custody or control of, any such vouchers, statements, returns, correspondence, notes or documents or any persons having direct

ly or indirectly by himself or his partner, any share or interest in any contract with or under the Panchayat, to appear in person before him;

(c) require any person so appearing before him to make and sign a declaration with respect to such vouchers, statements, returns, correspondence, notes or documents or to answer any statements;

(d) in the event of an explanation being required from the Sarpanch or other member of the Panchayat, in writing invite such person to meet him and shall in writing specify the point on which explanation is required.

(4) Any person who wilfully neglects or refuses to comply with any requisition lawfully made under sub-section (3), shall on conviction, be punished with fine which may extend to one hundred rupees:

Provided that no proceedings under this sub-section shall be instituted without the sanction of the Chief Executive Officer.

(5) The auditor shall, within one month after the completion of audit, forward a copy of the audit report to the Panchayat and to the Chief Executive Officer.

(6) On receipt of the audit report, the Panchayat shall either remedy any defects or irregularities which have been pointed out in the report and send to the Executive Officer within three months an intimation of its having done so, or shall within the same period furnish to the Chief Executive Officer any further explanation in regard to such defects or irregularities.

(7) On receipt of such intimation or explanation in respect of all or any of the matters discussed in the audit report, the Chief Executive Officer may, in consultation with auditor,—

(a) accept the intimation or explanation given by the Panchayat and order the withdrawal of the objection; or

(b) direct that the matter be reinvestigated at the next audit or at any earlier date; or

(c) direct that the defects or irregularities pointed out in the audit report or any of them shall be removed or remedied by the Panchayat.

(8) The Chief Executive Officer may, after making such enquiry as he may consider necessary, disallow any item of expenditure which appears to him to be contrary to law and surcharge the amount thereof on the person making or authorising the illegal payment and after taking the explanations of the persons concerned, the Chief Executive officer may direct by an order in writing that such person shall pay to the Panchayat the amount surcharged along with interest at fifteen percent per annum on the amount due, from the date from which it became due and if the amount is not paid within two months from the date of such order, the Chief Executive Officer shall take steps to recover it as an arrear of land revenue and credit it to the Panchayat Fund.

(9) Any person aggrieved by the order of the Chief Executive Officer under sub-section (8), may, within thirty days of the receipt by him of a copy of the decision, appeal to the Director who shall pass such orders as he may deem fit.

(10) The Director of Accounts shall submit a summary of observations made in the audit report and rectifications made by the Panchayats to the Government which shall be laid on the table of the House.

200. *Dissolution of Panchayats.*—(1) If, in the opinion of the Government, a Panchayat exceeds or abuses its powers or is not competent to perform or makes persistent default in the performance of

the duties imposed on it under this Act or any other law for the time being in force, the Government may, after consultation with the Zilla Panchayat concerned by an order published in the Official Gazette dissolve such Panchayat.

(2) If in the opinion of the Government, a Zilla Panchayat exceeds or abuses its power or is not competent to perform or makes persistent default in the performance of the duties imposed on it under this Act or any other law for the time being in force, the Government may after conducting an inquiry under Section 177, by an order published in the Official Gazette, dissolve such Zilla Panchayat.

(3) Before publishing an order under sub-section (1) or sub-section (2), the Government, shall communicate to the Panchayat or Zilla Panchayat, as the case may be, the grounds on which he or it proposes to do so, fix a reasonable period for the Panchayat or Zilla Panchayat to show-cause against the proposal and consider its explanation and objections, if any.

(4) When a Zilla Panchayat or Panchayat is dissolved, all the members of such Zilla Panchayat or Panchayat, as the case may be, shall, from the date specified in the order, vacate their office as such members.

(5) When a Panchayat or Zilla Panchayat is dissolved it shall be reconstituted in the manner provided in this Act before the end of six months from the date of such dissolution:

Provided that where the remainder of the period which the dissolved Zilla Panchayat or Panchayat would have continued is less than six months, it shall not be necessary to hold an election under this section for constituting a Zilla Panchayat or Panchayat for such period.

(6) A Zilla Panchayat or Panchayat constituted upon dissolution before the expiration of its duration, shall continue only for the remainder of the period of which the dissolved Zilla Panchayat or Panchayat would have continued had it not been so dissolved.

(7) If a Panchayat or Zilla Panchayat is dissolved,—

(a) all the powers and duties of the Zilla Panchayat or Panchayat shall, during the period of its dissolution be exercised and performed by such person or persons as the Zilla Panchayat or the Government, as the case may be, may from time to time appoint in this behalf;

(b) all property vested in the Panchayat or Zilla Panchayat or Zilla Panchayat dissolved shall during the period of dissolution vest in the Government;

(c) the persons vacating office on dissolution shall be eligible for re-election.

201. *Appeals.* — (1) Any person aggrieved by original order of the Panchayat under section 76, 77, 84, 100, 104 and 105 of the Act may, within such period as may be prescribed, appeal to the Director.

(2) The Appellate Authority may, after giving an opportunity to the appellant to be heard and after such enquiry as it deems fit, decide the appeal and its decision shall be final.

210. *Liability of Members of Panchayats and Zilla Panchayats for loss, waste or Misapplication.*— (1) Every Member of Panchayat and Zilla Panchayat shall be personally liable for the loss, waste or misapplication of any money or other Property of the Panchayat and Zilla Panchayat, respectively, to which he has been a party or which has been caused or facilitated by his misconduct or wilful neglect of his duty as a member amounting to fraud.

(2) If, after giving the member concerned a reasonable, opportunity for showing cause to the contrary, the Chief Executive Officer is satisfied that the loss waste or misapplication of any money or other property of

the Panchayat or Zilla Panchayat, as the case may be, is a direct consequence of misconduct or wilful neglect on the part of such member, he shall, by order in writing, direct such member to pay to the Panchayat or Zilla Panchayat, as the case may be, before a fixed date, the amount required to get reimbursed from such loss, waste or misapplication.

Provided that no such order shall be made for bonafide or technical irregularities or mistakes of a member.

(3) If the amount is not so paid, the Chief Executive Officer shall recover it as an area of Land Revenue and credit it to the respective Panchayat or Zilla Panchayat fund, as the case may be.

(4) The order of the Chief Executive Officer shall be subject to an appeal to the Chief Secretary, if made within thirty days from the date of the order.

226. *Bar of suits, etc.*— (1) No civil court shall entertain a suit objecting to an assessment, demand, or charge made or imposed under this Act, or for the recovery of any sum or money collected under the authority of this Act, or for damages on account of any assessment or collection of money under the said authority, if the provisions of this Act have been in substance and effect complied with.

(2) No suit or other legal proceeding shall lie against a Chief Executive Officer or Executive Officer or Secretary or any other officer of the Government or a Panchayat or Zilla Panchayat concerned or any member, officer, servant or agent of such Panchayat, or Zilla Panchayat acting under its direction in respect of anything done or purporting to have been lawfully done and in good faith under this Act or any rule, regulation, bye-law or order made thereunder except with the previous sanction of the Zilla Panchayat or such officers as the Zilla Panchayat may specify.

(3) No suit or other legal proceeding shall lie against the Government in respect of anything done under this Act, or any rule, regulations or bye-laws made thereunder.

239. *District Planning Committee.*— (1) The Government shall constitute in every district, a District Planning Committee to consolidate the plans prepared by the Zilla Panchayat, Panchayats, and Municipal Councils in the district as a whole.

(2) The District Planning Committee shall consist of, —

(a) members of the House of the People who represent the whole or part of the district;

(b) the members of the Council of States who are registered as electors in the district;

(c) Adyaksha of the Zilla Panchayat;

(d) the President of the Municipal Council having jurisdiction over the headquarters of the district;

(e) such number of persons, not less than four-fifth of the total number of members of the Committee as may be specified by the Government, elected in the prescribed manner from amongst the members of the Zilla panchayat and Councillors of the Municipal Councils in the districts, in proportion to the ration between the population of the rural areas and of the urban areas in the district.

(3) All the members of the State Legislative Assembly whose constituencies lie within the district shall be permanent invitees of the Committee.

(4) The Chief Executive Officer shall be the Secretary of the Committee.

(5) The Adhyaksha of Zilla Panchayat shall be the ex-officio Chairman of the District Planning Committee.

(6) The District Planning Committee shall consolidate the plans prepared by the Zilla Panchayats, Panchayats, Municipal Councils in the district and prepare a draft development plan for the district as a whole.

(7) Every District Planning Committee shall in preparing the draft development plan,—

(a) have regard to,

(i) the matters of common interest between the Zilla Panchayats, Panchayats and Municipal Councils in the district including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructures and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Government may, by order, specify.

(8) The Chairpersons of every District Planning Committee shall forward the development plan, as recommended by such Committee to the Government.

241. *Amendment of Schedules I, II and III.*— The Government may, by notification, in the Official Gazette, omit, amend or add any activity, programme or scheme covered by or mentioned in Schedules I, II and III. On the issue of such notification, the Schedule shall be deemed to have been amended accordingly. Every such notification shall be placed before the State Legislature.

244. *Power of Government to make model regulations and bye-laws and adoption of such regulations and bye-laws by the Panchayats.*— (1) The Government may, subject to the provisions of this Act and the rules made under section 240, and previous publication of the draft for not less than one month, make model regulations and bye-laws for Panchayats and Zilla Panchayats.

(2) A Panchayat or Zilla Panchayat may by resolution adopt the model bye-laws or regulations, as the case may be, made under sub-section (1), and such bye-laws and regulations shall come into force within the jurisdiction of the Panchayat or Zilla Panchayat from such date as the case may be, it may specify in a notice published in the prescribed manner.

(3) The Government may, by order, direct any Panchayat, or Zilla Panchayat to adopt the model bye-laws and regulations in respect of any matter within such period not being less than three months from the date of, receipt of the direction by the Panchayat or Zilla Panchayat concerned.

(4) If any Panchayat, or Zilla Panchayat, fails to take any action for adopting the model bye-laws or regulations, as the case may be, the Government may, by notification, declare that the said model bye-laws or regulations, as the case may be, shall come into force within the jurisdiction of the Panchayat or Zilla Panchayat from such date as may be specified in such notification, and such bye-laws or regulations, as the case may be, shall come into force accordingly.

(5) The provisions of this section shall have the effect notwithstanding anything contained in sections 242 and 243.

SCHEDULE — I*

Functions and Responsibilities of Village Panchayat

I. General Functions:

- (1) Preparation of annual plans for the development of the Panchayat area.
- (2) Preparation of annual budget.
- (3) Providing reliefs in natural calamities.
- (4) Removal of encroachments on public properties.
- (5) Organising voluntary labour and contribution for community works.
- (6) Maintenance of essential statistics of the village.

II. Agriculture, including agricultural extension:

- (1) Development of waste lands.
- (2) Development and maintenance of grazing lands and preventing their unauthorised alienation and use.

III. Animal Husbandry, Dairying and Poultry:

- (1) Promotion of dairy farming, poultry and piggery.
- (2) Grass land development.

IV. Fisheries:

Development of fisheries in the villages.

V. Social and Farm Forestry, minor Forest Produce Fuel and Fodder:

- (1) Planting and preservation of trees on the sides of roads and other public lands under its control.
- (2) Fuel plantation and fodder development.
- (3) Promotion of farm forestry
- (4) Development of Social forestry.

VI. Khadi, Village and Cottage Industries:

- (1) Promotion of rural and cottage industries.
- (2) Organisation of conferences, seminars and training programmes, agricultural and industrial exhibitions for the benefit of the rural areas.

VII. Rural Housing:

- (1) Distribution of house sites within Village Panchayat limits.
- (2) Maintenance of records relating to the house, sites and other private and public properties.

VIII. Drinking water:

- (1) Construction, repairs and maintenance of drinking water well, tanks and ponds.
- (2) Prevention and control of water pollution.
- (3) Maintenance of rural water supply schemes.

SCHEDULE - III

Taxes and their maximum rates

| | |
|--|---|
| A. Tax on property: | Maximum Rate of Tax |
| 1. Tax on buildings | Such percentage of the annual letting value as may be prescribed. |
| <i>Explanation:</i> "Annual letting value" means "the annual rent for which any building or land, exclusive of furniture or machinery contained or situated therein or thereon, might reasonably be expected to be let from year to year". | |
| 2. Tax on lands not subject to agricultural assesment | For every one hundred square metre, one rupee per annum |
| B. Tax on Entertainments: | Twenty rupees per entertainment |
| C. Fees on bus stands: | Two rupees per bus per day. |
| D. Fee on Markets: | |
| (i) For every plot measuring not more than one square metre. | Fifty paise per day. |
| (ii) For every additional plot of one square metre or part thereof. | Twenty five paise per day, eight rupees per month. |
| (iii) Per basket or bag of any commodity. | One rupee. |
| (iv) Per cart load bag of any commodity. | Twenty rupees per month. |
| E.* Tax on advertisemnt and Hoarding: | |
| For every square metre or part thereof. | Five rupees per month |
| F. Fee on Registration of cattle: | |
| For every head of cattle brought for sale in shandies or fairs. | One rupee |
| G. (1) Sand extraction for M3. | One rupee |
| (ii) Laterite stones or other stone extracted for M3 | One rupee |

Assembly Hall,
Panaji.
15th December, 1996.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa

Notification

LA/B/4167/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 16-12-1996 is hereby published for general information in pursuance of the provisions of Rule 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 17th December, 1996.

THE GOA NON-BIODEGRADABLE GARBAGE
(CONTROL) BILL, 1996

(Bill No. 22 of 1996)

A
BILL

to prevent throwing or depositing non-biodegradable garbage in public drains, roads and places open to public view in the State of Goa and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Forty-seventh Year of the Republic of India as follows:-

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Non-Biodegradable Garbage (Control) Act, 1996.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the State Government may, by notification, in the Official Gazette, appoint and different dates may be appointed for different areas.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "bio-degradable garbage" means the garbage or waste materials capable of being destroyed by the action of living beings;

(b) "house gully" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or affording access to the latrine, urinals, cesspool or other receptacle for filth or other polluted matter, by persons employed in the clearing thereof in the removal of such matter therefrom;

(c) "local authority" means a Municipal Council, a Zilla Panchayat or a Panchayat constituted, or continued, under any law for the time being in force;

(d) "market" includes any place where persons assemble for exposing for sale, meat, fish, fruits, vegetables, food or any other articles for human use or consumption with or without the consent of the owner of such place, notwithstanding that there may be no common regulation for the concourse of the buyers and the sellers and whether or not any control is exercised over the business of, or the person frequenting, the market by the owner of the place or by any other persons;

(e) "non-biodegradable garbage" means the waste garbage or material which is not bio-degradable garbage and includes polyethylene, nylon, and other plastic goods such as P. V. C. polypropylene and polystyrene, which are not capable of being destroyed by an action of living beings and are more specifically included in the schedule to this Act;

(f) "occupier" includes :—

(i) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of

the rent of the land or building in respect of which such rent is paid or is payable;

- (ii) an owner in occupation of or otherwise using his land or building;
- (iii) a rent free tenant of any land or building; and
- (iv) any person who is liable to pay to the owner damages for the use and occupation of any land or building;
- (g) "Official Gazette" means the Official Gazette of the Government;
- (h) "owner" includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building, whether or his own account or on account of himself and others or an agent, trustee, guardian or receiver for any other or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant;
- (i) "place" means any land or building or part of a building and includes the garden, ground and outhouses, if any, pertaining to a building or part of a building;
- (j) "place open to public view" includes any private place, building, monument, fence, or balcony visible to a person being in, or passing along, any public place;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "Public Analyst" means the person appointed or recognised to be the Government Analyst, in relation to any environmental laboratory established or recognised in the State under the provisions of the Environment (Protection) Act, 1986 (Central Act 29 of 1986).
- (m) "public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, market, house-gully or way, whether a throughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass; and
- (n) "State Government" means the Government of Goa;

3. *Prohibition to throw garbage in public places, drains and sewage.*— (1) No person, by himself or through another, shall knowingly or otherwise throw or cause to be thrown in drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works, any non-biodegradable garbage or any bio-degradable garbage in a non-biodegradable bag or container likely to —

- (i) injure the drainage and sewage system.
- (ii) interfere with the free flow or affect the treatment and disposal of drain sewage contents; and
- (iii) be dangerous or cause a nuisance or be prejudicial to public health.

(2) No person shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed, any bio-

degradable or non-biodegradable garbage in any public place or in a place open to public view, unless—

- (a) the garbage is placed in a garbage receptacle, or
- (b) the garbage is deposited in a location designated, by a local authority having jurisdiction on an area for the disposal of garbage.

4. *Provision for placement of receptacles and places for deposit of non-biodegradable garbage.*— It shall be the duty of the local authority, or any officer authorised by it to —

- (a) place or provide or place in proper and convenient situation public receptacles, depots or places for temporary deposit or collection of non-biodegradable garbage;
- (b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of bio-degradable garbage;
- (c) provide for the removal of contents of receptacles, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section; and
- (d) arrange for recycling of the non-biodegradable garbage collected under this Act.

5. *Duty of owners and occupiers to collect and deposit non-biodegradable garbage, etc.*— it shall be the duty of the owners and occupiers of all lands and buildings —

- (a) to collect or to cause to be collected from their respective land and buildings the non-biodegradable garbage and to deposit or cause to be deposited, in public receptacles, deposits or places provided for temporary deposit or collection of the non-biodegradable garbage by the local authority in the area;
- (b) to provide separate receptacles or dustbins, other than those kept and maintained for deposit of bio-degradable garbage, of the type and in the manner prescribed by the local authority or its officers for collection therein of all the non-biodegradable waste from such land and buildings and to keep such receptacles, dustbins in good conditions and repair.

6. *Power of local authority for removal of non-biodegradable garbage.*— The local authority may, by notice in writing, require the owner or occupier or part-owner, or person claiming to be the owner or part-owner of any land or building which has become a place of unauthorised stacking or deposit of non-biodegradable garbage and is likely to occasion a nuisance, remove or cause to be removed the said garbage so stacked or collected; and if, in its opinion such stackings or collection of non-biodegradable waste is likely to injure the drainage and sewage system or is likely to be dangerous to life and health, it shall forthwith take such steps at the cost of such persons as it may think necessary.

7. *Studies, research and support programme.*— The State Government may —

- (a) undertake studies to determine the composition of bio-degradable or non-biodegradable garbage;
- (b) establish measures to conduct or support research or programmes to encourage source reduction, re-use and recycling of waste;

- (c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes;
- (d) encourage local authorities in the State to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick-up;
- (e) undertake and encourage, local authorities and other persons to implement policies to recycle waste materials, to promote energy conservation and to purchase products made from recyclable materials;
- (f) conduct and support research on recycling including information on operating recycling business and market information on recyclables;
- (g) conduct and support research on waste management and recycling, for use in educating the public, local authorities, institutions and industry; and
- (h) impose requirements on manufacturers, distributors and other persons who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packaging that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

8. *Penalties.*— (1) Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rules, notification or order made, issued or given under this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to rupees five thousand, or with both.

(2) Whoever having been convicted of an offence under this Act is again convicted of any offence under this Act shall be punishable with double the penalty provided for the latter offence.

(3) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act shall on conviction be punished with imprisonment prescribed for the offence.

9. *Offences by Companies.*— (1) If the person committing any offence punishable under this Act is a Company, every person who, at the time of the commission of the offence, was in charge of, and responsible to the Company for the conduct of the business of the Company, as well as the Company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Company and it is proved that the offence has been committed

with the consent or connivance of, or is attributable to any gross negligence on the part of any Director, Manager, Secretary or other officer of the Company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

10. *Offences to be tried summarily.*— All offences under this Act shall be tried in a summary way by a Judicial Magistrate of the First Class and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall, as far as may be, apply to such trials.

11. *Compounding of offences.*— (1) Any offence punishable under this Act may, before the institution of the prosecution, be compounded by such officer as may be authorised by the State Government in this behalf, on payment, for credit to the State Government, of such sums as such officer may specify.

(2) Where any offence has been compounded under sub-section (1), no proceedings shall be taken against the offenders, in respect of the offence as compounded, and the offender, if in custody, shall be discharged.

12. *Directions by the State Government.*— The local authority shall carry out such directions as may be issued to it, from time to time, by the State Government for the efficient administration of this Act.

13. *Power to amend schedule.*— (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the Public Analyst, by notification in the Official Gazette, add to, or omit from the schedule any item of non-biodegradable waste and thereafter the schedule shall be deemed to be amended accordingly.

(2) Every notification under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

14. *Power to delegate.*— The State Government may, by order published in the Official Gazette, direct that any power exercisable by it under this Act (not including the power to make rules under section 17) may also be exercised, in such cases as may be specified in the order, by such officer or authority, as may be specified therein.

15. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officer or other employees of the State Government or the local authority or any other person authorised by the State Government, for any thing which is in good faith done or intended to be done under this Act or the Rules made thereunder.

Other laws not affected.— The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

17. *Power to make rules.*— The State Government may, subject to the condition of previous publication, make rules for the purpose of carrying out the provisions of this Act.

SCHEDULE

[See section 2 (e)]

NON-BIODEGRADABLE GARBAGE

- (1) Polyethylene;
- (2) Polycarbonate;
- (3) Polypropylene;
- (4) Polystyrene;
- (5) Polyzinyl Chloride (PVC);
- (6) ABS;
- (7) Acetal;
- (8) Acrylic;
- (9) Cellulose Acetate;
- (10) Cellulose Acetate Butyrate;
- (11) Nylon.

Statement of Objects and Reasons

Due to the ever increasing use of non-biodegradable materials in general and plastic packing materials in particular, the problem of 'disposal/treatment' of non-biodegradable 'garbage/waste' has assumed serious dimensions. Similarly, large-scale production of 'bio-medical/clinical' waste, which also consists of non-biodegradable materials, generated in the hospitals, dispensaries, private clinics, laboratories and slaughter houses demands immediate attention to safeguard public health.

Particularly in the State of Goa, the problem of safe 'disposal/treatment' of non-biodegradable garbage is more pronounced because of high percentage of urban population

coupled with the ever expanding tourism industry. Further, environmental problems are also created by non-biodegradable waste.

This Bill aims at controlling the menace of indiscriminate and hazardous disposal of non-biodegradable garbage as well as other types of wastes including bio-degradable materials.

Financial Memorandum

No financial implications are involved in this Bill. However, certain expenses required for the implementation of the provisions of the Act will be borne by the local authorities designated under the Act.

Memorandum regarding delegated Legislation

Clause 1 (3) of the Bill empowers the State Government to appoint the date of bringing into force the provisions of the Act. Clause 12 of the Bill authorises the State Government to issue directions to the local authorities for the efficient administration of the Act. Clause 13 (1) of the Bill empowers the State Government to amend the schedule appended to the Act. Clause 14 of the Bill enables the Government to delegate its powers as specified by order published in the Official Gazette, in favour of such officer or authority, as to be specified therein. Clause 17 of the Bill empowers the State Government to make rules for the purpose of carrying out the provisions of the Act.

These delegations are of normal character.

Panaji,
14th December, 1996.

WILFRED MESQUITA
Minister for Environment

Assembly Hall,
Panaji
15th December, 1996.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa